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c 96 The Public Service Amendment Act, 1972

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CHAPTER 96

An Act to amend The Public Service Act

*Assented to June 30th, 1972
Session Prorogued December 15th, 1972*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *e* of section 1 of *The Public Service Act*, being ^{s. 1(e),} amended chapter 386 of the Revised Statutes of Ontario, 1970, is amended by striking out "the Workmen's Compensation Board" in the fourth and fifth lines.

2. Section 2 of the said Act is amended by adding thereto ^{s. 2,} amended the following subsection:

(3) The chairman of the Commission shall rank as and have all the powers and duties of a deputy minister ^{Chairman to rank as deputy minister} of a ministry.

3. Section 3 of the said Act, as amended by the Statutes ^{s. 3,} amended of Ontario, 1972, chapter 1, section 107, is further amended by adding thereto the following subsection:

(2) The staff of the Commission is responsible to the ^{Staff} chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission.

4. Clause *b* of section 4 of the said Act is amended by ^{s. 4(b),} amended striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

5. Subsection 2 of section 17 of the said Act is repealed. ^{s. 17(2),} repealed

6. Sections 27 and 28 of the said Act are repealed and ^{ss. 27, 28,} re-enacted the following substituted therefor:

27.—(1) In this section,

Interpre-
tation

- (a) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;
- (b) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;
- (c) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;
- (d) "Negotiating Committee" means the Ontario Provincial Police Negotiating Committee.

Application
of sections
27, 28

- (2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants.

Bargaining
authority

- (3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force, in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 4, and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to a member for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by members, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.

- (4) Except in relation to matters governed by or under *The Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee. Exclusive functions of employer R.S.O. 1970, c. 351
- (5) The Ontario Provincial Police Negotiating Committee appointed by the Lieutenant Governor in Council is continued and shall be composed of, Negotiating Committee
- (a) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";
 - (b) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and
 - (c) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.
- (6) The Lieutenant Governor in Council may appoint a person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent. Acting chairman
- (7) The chairman of the Negotiating Committee shall, Duties of chairman
- (a) at the request of a member convene a meeting of the Negotiating Committee;
 - (b) prepare the agenda for each meeting; and
 - (c) preside at each meeting.
- (8) Subject to subsection 7, at the request of a member of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning, Agenda

- (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or
- (b) the interpretation or clarification of any clause in an agreement.

Idem

(9) Notwithstanding clause *a* of subsection 8, where,

- (a) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and
- (b) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause *a* be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

Quorum

(10) A quorum of the Negotiating Committee consists of,

- (a) the chairman;
- (b) two members of the staff side; and
- (c) two members of the employer side.

Matters to be negotiated

(11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections 8 and 9.

Grievance procedure

(12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which *The Police Act* or the Code of Offences contained in the regulations made thereunder applies.

R.S.O. 1970,
c. 351

Decision

(13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side.

When binding

(14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until

the decision has been approved in the manner set out in subsection 15 and transmitted by the chairman for implementation as set out in subsection 16.

- (15) Approval of a decision of the Negotiating Committee shall be, ^{Approval}
- (a) on the staff side, by a decision of the Board of Directors of the Association; and
 - (b) on the employer side, by a decision of the Management Board of Cabinet.
- (16) The chairman of the Negotiating Committee shall transmit every decision of the Negotiating Committee to the proper authority to be implemented. ^{Implementation}
- 28.—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of, ^{Arbitration Committee}
- (a) a chairman appointed for a renewable term of two years;
 - (b) one member recommended by the staff side of the Negotiating Committee; and
 - (c) one member recommended by the employer side of the Negotiating Committee.
- (2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 2 of section 27. ^{Reference}
- (3) Every decision of the Arbitration Committee shall be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee. ^{Decision}
- (4) The chairman of the Negotiating Committee shall transmit the decision of the Arbitration Committee to the proper authority to be implemented. ^{Implementation}

Implementa-
tion of
collective
agreements,
etc.

28a. Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall be implemented by the Lieutenant Governor in Council by order in council.

s. 29 (1) (b)
amended

7.—(1) Clause *b* of subsection 1 of section 29 of the said Act is amended by striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

s. 29 (1) (t),
re-enacted

(2) Clause *t* of subsection 1 of the said section 29 is repealed and the following substituted therefor:

(t) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee.

s. 29,
amended

(3) The said section 29 is amended by adding thereto the following subsection:

Where agree-
ment in
conflict with
regulation

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4, 6 and 7, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of April, 1972.

Idem

(3) Sections 1, 4, 6 and 7 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

9. This Act may be cited as *The Public Service Amendment Act, 1972*.